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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

23 Cr. 016 (JHR)

5 SERGEY SHESTAKOV,

6 Conference

7 Defendant.

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8 New York, N.Y.
9 January 27, 2025
10 2:34 p.m.

11 Before:

12 HON. JENNIFER H. REARDEN,

13 District Judge

14 APPEARANCES

15 DANIELLE R. SASSOON

16 United States Attorney for the
17 Southern District of New York

BY: OLGA ZVEROVICH

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20 BY: RITA MARIE GLAVIN

21 KATHERINE E. PETRINO

LEO KORMAN

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1 (Case called)

2 MS. ZVEROVICH: Good afternoon, your Honor. Olga
3 Zverovich, Rebecca Dell, and Amanda Weingarten for the United
4 States.

5 THE COURT: Hello.

6 MS. GLAVIN: For Mr. Shestakov, Rita Glavin with my
7 colleagues Katherine Petrino and Leo Korman, along with my
8 client Sergey Shestakov.

9 THE COURT: Good afternoon. Please be seated.

10 Ms. Glavin, we're here on your application.

11 MS. GLAVIN: Yes, your Honor. I've had some time over
12 the weekend to consider Mr. Olson's declaration. And I also
13 conferred this morning with Mr. Fokin's counsel in anticipation
14 of the conference and here's where I'm at and what I'd like the
15 Court -- propose that the Court do.

16 Mr. Shestakov for some time has wanted Mr. Fokin's
17 testimony, and we are at a point where we can get it and he's
18 willing to do it. And we learned that for the first time in
19 December.

20 We have consulted with local counsel in Dubai and
21 there is no -- we are certain that there is no requirement that
22 we submit letters rogatory. This is a defense request. It is
23 a Russian citizen voluntarily appearing without court process
24 or the need for a court order requesting assistance.

25 But from what we take from the government's

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1 submissions on January 9th, or may have been the 10th, and
2 January 22nd, and the affidavit of Mr. Olson, is that the
3 government OIA, the Office of International Affairs, which is
4 within the criminal division of the Justice Department, has a
5 policy that prosecutors, they're not going to let this team
6 participate in the deposition unless an MLA request is made or
7 we go through the process of letters rogatory.

8 Because of the importance of Mr. Fokin's testimony,
9 because the whole case could hinge on that, what I would like
10 to do, because I think there are unanswered questions in
11 Mr. Olson's declaration. What I would like is for the Court to
12 direct that Mr. Olson and the prosecution team confer with
13 defense counsel this week on this issue. Because what I would
14 like to understand from Mr. Olson is, first, where he states in
15 at the end of his declaration that [REDACTED]

16 [REDACTED]
17 [REDACTED]

18 What I would like to understand from Mr. Olson is what
19 were the circumstances of those cases. Because I'm guessing
20 that those cases did not involve a defendant who had been
21 charged, who would be calling them -- if would be a defense
22 witness, a private witness, that the witness is voluntarily
23 coming to UAE and that witness has exculpatory information,
24 that is, information that there was not a sanctions violation,
25 that the witness's testimony would not be used to prove up a

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1 case against on behalf of the United States Government. But
2 rather, is coming to say the government got this wrong. And
3 that's the reason he's coming.

4 And that what I told the government and what I, you
5 know, two years ago, and then what I told my company's counsel
6 when they asked me about it this summer, is that this is not
7 what happened. This was done on behalf of En+, Rusal, and this
8 was legal as far as their perspective. I would like to
9 understand that from a discussion with Mr. Olson. That's the
10 first part.

11 The second part is if we do letters rogatory, we make
12 application to the Court, we do letters rogatory, I want to
13 understand that process as well. Because I know this came up
14 in *United States v. Fargesen*, the case in front of Judge
15 Preska, we looked at the docket on that case. And I want to
16 understand with him, you know, what the differences are, not
17 differences are.

18 The second thing I would like to know in talking to
19 Mr. Olson is, because I don't want to spin my wheels, if he's
20 telling me no way no how this is going to happen, and I consult
21 with my counsel who I've been talking with in Dubai to get his
22 perspective on this, which is entirely aligned with the
23 government's, if I speak to Mr. Olson and he says, Rita, it may
24 be able to happen in Cyprus or Turkey, in which case this is
25 what you should do, I would like to understand from him if

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1 there are alternatives in his experience dealing with the
2 specific facts that we are facing here. Which is why I reached
3 out to Mr. Fokin's counsel this morning to see.

4 While Mr. Fokin, understanding what the time schedule
5 was, for him and when the trial was and, yes, he was willing to
6 come here as soon as he could work it with my schedule and with
7 his attorney's schedule.

8 THE COURT: Here, I'm sorry, who are you referring to
9 was willing to come here?

10 MS. GLAVIN: No, not willing to come here because the
11 government isn't promising him safe passage. And even if the
12 government promised him safe passage, what he's made clear and
13 is in my affidavit from December 17th is he doesn't trust the
14 government, among a bunch of reasons that they got this wrong.

15 So he's not willing to come here. But the question is
16 understanding the importance of his testimony, understanding it
17 may be able to get done in another place, I would like to
18 explore that with Mr. Olson. It's why I raised it with
19 Mr. Fokin's counsel this morning. Mr. Fokin is in Russia right
20 now as far as I know. So it takes him a little time to get in
21 touch with him. But he assured me that he would relay that and
22 see what he could get back.

23 So that, your Honor, is how I would propose to
24 proceed, because I want to get this done in the most efficient
25 way possible. I did not want to give up the February 3rd date

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1 for a host of reasons, because everyone was available and we
2 could keep the pressure on everybody. And I also bought a
3 plane ticket. But -- nonrefundable. But the reality is, from
4 what I'm reading in the government's papers, their practices
5 and procedures at the Justice Department say we're not going to
6 let them do this. And this is what's going to have to happen.
7 And if it means that the letters rog might be enough and if it
8 means that it's coming from the defense, because I think how
9 the request is made is also particularly important. And I want
10 to raise that with Mr. Olson. How we phrase it in a letters
11 rogatory to make it quite clear what we understand he would
12 testify to, that he is coming willingly with affidavits, not
13 just from myself but maybe perhaps from his counsel, could that
14 make a difference?

15 Secondly, I'm concerned about the government's MLA
16 request and what that would look like going to UAE. And my
17 concern about that and not seeing it before its transmitted to
18 UAE is that this is entirely a defense request. It's a proffer
19 of what we believe he will say based on representations to us
20 by his counsel, based on representations that En+, his outside
21 counsel at Boies Schiller has told us, he has, you know,
22 reiterated to them when they interviewed him this summer
23 given -- knowing what the importance was.

24 MLA requests, in my experience, and it is drawn upon
25 my time at the Justice Department, are written in a certain way

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1 that don't necessarily layout what the defense is doing and
2 what the defense case is, in a way that we would lay it out.
3 And because this is our request, that's something I would also
4 like to pose to Mr. Olson.

5 So that's where we stand on this and sort of the
6 proposal I'm putting forward to the Court to try to get this
7 done.

8 THE COURT: Did the government know about these new
9 ideas before coming in here this afternoon or?

10 MS. GLAVIN: No, your Honor. I literally -- this has
11 all happened over the course of our talking internally this
12 morning, me talking to Mr. Shestakov outside the courtroom for
13 the first time about this. He's been aware of this, of where
14 we were at on Friday. And me taking some time to talk with my
15 team this morning.

16 But I think that these are, to me, reasonable
17 proposals to try and get through this. And I'm happy, if the
18 government wants to consult with me outside now, I'm happy to
19 do that and take a break.

20 THE COURT: Ms. Zverovich, do you wish to give me your
21 reaction now? Would you like to confer with Ms. Glavin? I
22 have thoughts of my own, but I would like to hear from you
23 first.

24 MS. ZVEROVICH: Your Honor, I think the government is
25 prepared to give the Court its reaction.

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1 First, as the Court knows from the correspondence that
2 the government has submitted, we have conferred extensively
3 with OIA and we have conferred with the state department with
4 respect to this. And I think the papers set forth the full set
5 of facts relevant to this issue, which is that it remains the
6 position of OIA and the state department that the defendant is
7 required to submit a request for approval to the UAE in order
8 to be able to conduct this Rule 15 deposition. The customary
9 way, and this is on the state department's website for such a
10 defense request, is a letters rogatory.

11 That is separate from the MLA process. The MLA
12 process is required in order for the government to be able to
13 participate in the deposition of Mr. Fokin. And the government
14 has acted expeditiously in finalizing that MLA. And its
15 currently -- it's been signed by OIA. It is pending
16 translation and that process is underway.

17 The MLA process is a diplomatic process between the
18 executive branches of two different governments, from the U.S.
19 government to the UAE. It is a process in which private
20 parties and defense counsel do not play a role. And,
21 therefore, we would submit, your Honor, that it would be
22 improper for the defendant to inspect this MLA or to ask
23 Director Olson any questions.

24 To the extent there are any additional issues that
25 need to be answered, we think the declaration is fulsome, but

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1 to the extent there are any additional questions, we're happy
2 to try to get additional information from OIA. But we submit
3 it would not be proper to allow the defense to inspect the MLA.

4 That said, we do represent to the Court that the MLA
5 accurately summarizes all of the charges in this case. It
6 attaches the Court's order granting the Rule 15 deposition,
7 which sets out the relevance of Fokin's testimony. It explains
8 that it's a defense initiated request and that the government
9 is seeking authorization to participate in the deposition. And
10 as I said, your Honor, that request is pending translation to
11 Arabic currently.

12 THE COURT: All right. Is it your position then that
13 it would be -- again, I have my own thoughts -- but that it
14 would be improper to have Ms. Glavin interact directly with
15 Mr. Olson?

16 MS. ZVEROVICH: Correct, your Honor. That is our
17 position.

18 THE COURT: Okay. Is there any precedent for a
19 defendant in a criminal case to -- what is the precedent,
20 Ms. Glavin?

21 MS. GLAVIN: Your Honor, my understanding is Mr. Olson
22 is a DOJ lawyer. He can participate on any phone call and
23 interact with us in the same way that the AUSAs interact with
24 us. My experience has also been that defense lawyers can reach
25 out to OIA as well when they have questions about the process.

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1 There is no harm, no foul here. Mr. Olson doesn't
2 want to answer questions, he doesn't have to answer the
3 questions. So I don't see any prejudice to them.

4 Secondly, with respect to being able to see the MLA,
5 my understanding, it's not a secret document. It's a document
6 using, as I understand it, public information from the case. I
7 don't know why the government wouldn't want to share that with
8 the Court and with defense counsel given our interest is in
9 making this happen.

10 I don't want to wordsmith it because --

11 THE COURT: Well, that's good.

12 MS. GLAVIN: Yeah, I don't have the time to wordsmith
13 it. But what I do want to do is make sure there are certain
14 points in there. And so that's another reason I want to look
15 at it.

16 The last is with respect to letters rogatory. When
17 your Honor was asking had we raised this with the government
18 before we came here. We certainly put in the papers we were
19 willing to consider that -- doing that and going through the
20 process if it could expedite things.

21 And Mr. Olson is very experienced, I don't question
22 that. We overlapped together at the department. Which is why
23 I think it would be very helpful to get -- to have the
24 discussion with him about if we were to propose and be able to
25 get Mr. Fokin to agree to appear in Cyprus or in Istanbul, what

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1 kind of assistance we could get from OIA to make that happen
2 expeditiously.

3 One of the things is, and we cited a bunch of these
4 cases in our last letter, but it would be extraordinarily
5 helpful, you know, the Court has already directed us to confer
6 in good faith in making sure that we can try to get this done
7 expeditiously. And having Mr. Olson participate on those
8 conversations, because I am guessing this is probably one of
9 the first times that this prosecution team has dealt with an
10 issue like this. And this, certainly from my perspective on
11 the defense side, I have not asked for Rule 15 before. I do
12 know it fairly well from the government side. But I do think
13 having somebody from OIA who does it on a regular basis and
14 routinely advises prosecutors about what they can and cannot
15 do, and I think when defense counsel has letters rogatory and I
16 can, you know, I can ask around among my colleagues on the
17 defense side about this, I think they had been able to engage
18 with OIA. It's very difficult for us to get a phone call back.

19 So when your Honor issued an order granting the Rule
20 15, we, you know, promptly reached out to get court reporter
21 services. We have tried to get in touch with the U.S. Embassy
22 so that we can get someone available to do the oath. We've had
23 difficulties getting a response back to them, but I think the
24 government could help on that tremendously.

25 THE COURT: I'm not going to direct the government to

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1 do that.

2 MS. GLAVIN: To assist us?

3 THE COURT: To assist you in getting someone to
4 administer the oath?

5 MS. GLAVIN: No. To make reasonable efforts to assist
6 us, yes. There is case law, your Honor, and I think it may
7 have been in Judge Preska's decision, but it also may have been
8 in either the *Vallar* case or there was a case recently by Judge
9 Cronan. But certainly for the government to make reasonable
10 efforts to be in touch with the consulate to assist the defense
11 in arranging it.

12 THE COURT: All right. Well, you cited both *Mashinsky*
13 and *Alexandre*. I have already directed the government to act
14 in good faith. You cited *Mashinsky* and *Alexandre* and I don't
15 see them as supporting a request to direct the government to
16 act to do anything in particular. And *Mashinsky*, Judge Koeltl
17 declined to direct the government to take any specific actions,
18 and that's what Judge Cronan did in the *Alexandre* case as well.

19 MS. GLAVIN: But I think, your Honor, what we're
20 asking for is direct them to make reasonable efforts. Not to
21 do X, Y and Z, but to make reasonable efforts.

22 THE COURT: And reasonable efforts, again, to?

23 MS. GLAVIN: Help us in arranging to get in touch with
24 the counsel's office -- the consular's office.

25 THE COURT: No, I've already directed them to act in

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1 good faith throughout this process. And I'm not going to
2 direct them to do anything specific. I don't think there's a
3 basis for that and I don't think it's appropriate. And I do
4 want to also say that we are -- and I'm considering it, but
5 we're going pretty far afield from the case law here on your
6 request for more information from Mr. Olson.

7 Judges in this district regularly consider the
8 government's representations about OIA guidance, and I went
9 beyond that here. So in the *Menendez* case, for example, Judge
10 Stein accepted the government's representations about OIA
11 guidance and he did it, you know, he accepted the government's
12 representations as credible even against the defendant's
13 affidavit to the contrary. I don't have that here. That was
14 also the case in *Mashinsky* with Judge Koeltl and in *Alexandre*
15 with Judge Cronan. In all of those cases, those judges
16 accepted the government's representations about what the
17 government was hearing from OIA. Now, I went beyond that here
18 and I directed that OIA provide a declaration. We have that
19 now.

20 I am not opposed to asking Mr. Olson to address some
21 additional matters in a supplemental declaration, but I'm not
22 going to order him or condone in any way or put my *imprimatur*
23 on a joint phone call with you where you can question Mr. Olson
24 directly.

25 If you want to try to do that yourself, I guess

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1 there's nothing stopping you. But that's not going to come
2 from me.

3 So if would you like to talk to government now or you
4 can say out loud again what you would like Mr. Olson to address
5 that you don't believe he's already covered. Let's see what
6 the government's position would be on having him speak to those
7 additional questions. I mean, one that I have in mind is he
8 could address the propriety or impropriety about the MLA being
9 shared with defense counsel.

10 Ms. Zverovich, is the government on board with what
11 I'm saying at this point, or what is your position?

12 MS. ZVEROVICH: One moment, your Honor.

13 Your Honor, generally, yes, I will say with respect to
14 sharing the MLA, the government did speak with OIA about this
15 very issue this morning and I'm happy to relay what they
16 conveyed.

17 THE COURT: I think you did. Did you already say that
18 they do not consider that to be appropriate to share it,
19 correct?

20 MS. ZVEROVICH: Correct, your Honor.

21 THE COURT: I'm saying if we're going to have
22 Mr. Olson address additional questions, why not have him direct
23 that one also.

24 MS. ZVEROVICH: Understood, your Honor.

25 THE COURT: All right. Ms. Glavin, I know you have

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1 concerns that Mr. Olson might not realize some important facts
2 and circumstances here that, in your view, distinguish this
3 request for a deposition from others that might have come up.

4 [REDACTED]

5 [REDACTED]

6 [REDACTED] But I take it you want to
7 know from him directly that he has considered the exact
8 situation here.

9 Okay. So can you articulate that again what the
10 question would be?

11 MS. GLAVIN: Sure, your Honor. With respect to that,
12 just simply where it is a defense request, where it is a
13 witness who's non-UAE, voluntarily and willingly coming to the
14 UAE. And it is not to give testimony for a prosecution, but
15 for the defense.

16 THE COURT: Okay.

17 MS. GLAVIN: And then to the extent -- and to the
18 extent it is also what will his experience with Cyprus and
19 Turkey, which we may be able to do as well.

20 THE COURT: Meaning how would the process differ and
21 would it potentially be faster if the deposition took place in
22 Cyprus or Turkey?

23 MS. GLAVIN: Yeah. And have they dealt with sanctions
24 as well. And then I think the last is to the extent -- one of
25 the other questions I had, is it simply said [REDACTED]

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1 [REDACTED] [REDACTED] [REDACTED]
2 [REDACTED]
3 What does that mean? If a country who doesn't have an
4 MLA treaty, which UAE does not have with the U.S., which is one
5 of the reasons we were focused on UAE is because there is not a
6 ratified MLA between them. And as I understood it from the
7 government's initial submission, the MLA is discretionary. But
8 internal policies say even if you don't have the MLA, DOJ or
9 OIA wants the prosecutors to do it. [REDACTED]

10 [REDACTED] why would the prosecutors be prohibited even if they
11 participate remotely?

12 THE COURT: Remotely meaning they would plug in by
13 Teams or Zoom?

14 MS. GLAVIN: Yeah, meaning they would be on U.S. soil,
15 that we fully intend to go personally to the UAE to the
16 deposition because we're going to have documents. It's going
17 to be easier that way. But for the government to be able to
18 participate doing it in their office, you know, at 26 Fed, if
19 there is no response.

20 THE COURT: Ms. Zverovich.

21 MS. ZVEROVICH: Your Honor, we addressed several of
22 these. With respect to the last, Mr. Olson's declaration makes
23 clear that with respect to the government's ability to
24 participate, a formal MLA request is required and it's required
25 for it to be approved to the UAE prior to the government's

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1 participation in any way in this deposition. And that would be
2 a violation of UAE sovereignty for the United States to
3 participate in this deposition without getting that approval.

4 THE COURT: Do you read that to -- I don't think he
5 addressed virtual participation. Do you read that to extend to
6 virtual participation?

7 If not, perhaps he could answer that question
8 directly.

9 MS. GLAVIN: He did make a representation, your Honor,
10 about not being able to participate remotely.

11 THE COURT: Okay.

12 MS. GLAVIN: But I think it was with respect to OIE's
13 policy.

14 MS. ZVEROVICH: Your Honor, it's actually in paragraph
15 13 of Mr. Olson's declaration. Which sets forth the
16 requirements for the government to be able to participate. And
17 it says that the UAE authorities have explained to OIA, that
18 this, the MLA requirement, applies regardless of which party
19 initiates the deposition, whether the deposition occurs in
20 person or remotely, via telephone or video conference.

21 THE COURT: All right. Well, that question has been
22 answered then. So we don't need to go back to him on that.

23 MS. ZVEROVICH: Your Honor, I will also say that the
24 government believes its inappropriate to pose additional
25 hypothetical questions about other countries to OIA. This is

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1 the first time the government is hearing Cyprus. I think at
2 the very least the defense should be required to represent that
3 Mr. Fokin is willing to travel to any of these countries before
4 we go down this rabbit hole.

5 THE COURT: I agree.

6 MS. GLAVIN: I agree with that, your Honor.

7 THE COURT: All right. Ms. Glavin, so you can put
8 that in writing.

9 MS. GLAVIN: Yes, once we confer, yes.

10 THE COURT: So by my count, we have four additional
11 questions. I do want to make sure that the two sides come to
12 ground on what the questions are before they relay to
13 Mr. Olson, because we're not doing a third round of this. This
14 is it. So I want to make sure that there's agreement to the
15 maximum possible extent on what he's going to be answering this
16 time.

17 Ms. Zverovich, when do you think Mr. Olson, you may
18 have to check with him, could come through with a supplemental
19 declaration?

20 MS. ZVEROVICH: Your Honor, considering that we'll
21 need some time to confer with respect to the set of questions,
22 we would say -- we would ask for ten days.

23 THE COURT: Well, now we confront the question about
24 trial and Ms. Glavin's request for a brief adjournment and what
25 is meant by brief. The government has pointed out I believe a

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1 willingness to consent to a brief adjournment noting, not
2 unreasonably, that it doesn't know what is meant by brief.

3 So let's get into that now. Wait a second, I do have
4 to say, Ms. Glavin.

5 MS. GLAVIN: Yes.

6 THE COURT: That in my view you waited too long to do
7 this, and I'm unhappy about it. And this is not even the first
8 time. So in your declaration you say that you made several
9 attempts to contact Mr. Fokin during February and March of
10 2024. In February and March of 2024, until the end of March,
11 we were set to go to trial in June. That was too late to start
12 the process for a trial in June. So that's the first time you
13 waited too long.

14 Not to mention that that was already more than a year
15 after the case was indicted. We're now at two years since this
16 case has been indicted. Then you say that counsel for En+
17 informed you that if the Court authorized a deposition, the
18 company would make best efforts to make Mr. Fokin available,
19 but the motion wasn't brought until mid November. Twice you
20 asked to adjourn the briefing schedule.

21 It shouldn't have played out that way. I'm going to
22 consider the adjournment request, but I think that this has
23 not -- you should have started this earlier.

24 MS. GLAVIN: Can I just walk through, your Honor,
25 chronology, just to make my record.

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1 THE COURT: Yes. And I would like to know, by the
2 way, exactly when did you find out that Mr. Fokin would be
3 unavailable to come to trial here?

4 MS. GLAVIN: In December. I think we filed -- I think
5 we learned a few days before we filed our reply brief.

6 THE COURT: All right.

7 MS. GLAVIN: So, your Honor, the chronology went as
8 this. We did not know anything about what would be the
9 government process for this. Okay. We did not know that it
10 would take them months to do this. We thought this could be
11 done relatively quickly.

12 Particularly, Mr. Fokin, one, was he willing to come
13 to the U.S.; or, two, would he go to, you know, another country
14 in which the government could more easily get approvals.

15 So we put the government on notice six months before
16 the trial that we may try to get a Rule 15 deposition. But the
17 issue that we had was all we had from Mr. Fokin was what the
18 government had produced in their border report.

19 THE COURT: Excuse me, the what?

20 MS. GLAVIN: In the border report from when he had
21 been stopped.

22 THE COURT: Oh.

23 MS. GLAVIN: So he had been stopped in 2021. We knew
24 that the border report wasn't going to be enough to get a Rule
25 15 granted.

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1 We reached out repeatedly to Mr. Fokin in February and
2 in March. Called repeatedly. Reached out through written
3 electronic message. And we got nowhere. To find out if he
4 would come here. So it was unclear, A, if we would have to do
5 a Rule 15 at that point. Because we repeatedly could not get
6 in touch with them, with Mr. Fokin.

7 We then were in touch with En+'s counsel as we were
8 getting ready for trial. And because En -- I viewed it as I
9 could no longer get in touch with Mr. Fokin directly because
10 once I engaged with En+'s counsel, I took that under the ethics
11 rules to mean I couldn't contact him directly and had to work
12 through En+'s counsel. En+'s counsel at Boies Schiller told me
13 that they were taking steps, things would take time. They did
14 not know what Mr. Fokin would testify to.

15 So at this point in time I did not know what he would
16 say, if he would come to the United States, and I was on
17 regular phone conversations with Boies Schiller on this issue.

18 Boies Schiller was also seeking trying to get
19 information from the company. Once the trial date got
20 adjourned, I think that they met with him. I think from the
21 government's notes is that En+'s counsel met with Mr. Fokin and
22 I think the government had also made requests of En+'s counsel
23 from their end. And that they took a trip to Russia. And they
24 then met, they met with Mr. Fokin, and then En+'s counsel met
25 with the government and proffered to the government what they

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1 had learned, what Mr. Fokin told them. The government then
2 provided those notes from that conversation to the defense in
3 July on the eve of the August trial.

4 So up until that point, A, we did not know precisely
5 what he was going to testify to. Other than what he said at
6 the border years -- three years earlier, which wasn't going to
7 be good enough for me to get a Rule 15 from the Court. And I
8 knew that from the case law. B, then the question was would he
9 be willing to come to the United States and would he be
10 unavailable, which we did not know.

11 After -- so the government produced these *Brady* notes
12 to us in July right about the same time asked for an
13 adjournment of the August trial date. We then had -- I had
14 numerous discussions with En+'s counsel because we were also
15 discussing with the government getting documents from En+.

16 After the trial got adjourned, I continued talking to
17 En+'s counsel about we need to know if he will testify. And
18 what En+'s counsel said repeatedly is we are trying to obtain
19 counsel for him and we are trying to get the company to get
20 individual counsel for him. We waited, probably five to six
21 weeks, waiting for Mr. Fokin to get counsel who could advise
22 him and so that we would be able to present to the Court, is he
23 unavailable, would he be willing to go to the United States or
24 another country, and what would that look like. Otherwise, I
25 didn't have the ability to make a Rule 15 motion.

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1 So this is something we had been working on for
2 months.

3 THE COURT: I understand that all of that takes time,
4 but my problem is by your own admission in your declaration,
5 you didn't start this process until February or March of 2024,
6 more than a year after the case was indicted, and not very long
7 before the trial that was scheduled at that point.

8 So I get that all of this back and forth takes time,
9 but what were you doing the first year?

10 MS. GLAVIN: The first year, your Honor.

11 THE COURT: Yeah, in terms of Mr. Fokin and his
12 deposition.

13 MS. GLAVIN: Your Honor, we were -- we did not think
14 Mr. Fokin would testify. And what we were getting from the
15 government is that it wouldn't have been good for us. So it
16 was a lot of back and forth and discussion with our team. Do I
17 wish now knowing that a -- what Mr. Fokin was going to testify
18 to with detail is exactly what we've been saying all along, and
19 that the company would make reasonable efforts to do it,
20 absolutely not. It took months for that. I never dreamed it
21 would take as long as it was going to take. Ever.

22 THE COURT: You were talking to the government in 2023
23 about --

24 MS. GLAVIN: We raised -- we asked them about Fokin.
25 We were actually asking them about Fokin's devices. Part of

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1 the issue, we did not -- Fokin's devices, there were issues
2 with them as we went through them because we were like who is
3 Fokin talking to. And before I was going to start making
4 representations to the Court in putting affidavits together, I
5 wanted to know. And then I subsequently learned it took a long
6 time to learn they don't have full images of Mr. Fokin's
7 devices.

8 But, yes, we were going through that. We were
9 translating documents. We did not actually get, your Honor --
10 the government produced to us some translations. We did not
11 find, except through our own translations that were of a
12 Russian document and a French document -- and I think I called
13 it the proverbial needle in the haystack in discovery. We did
14 not get those translations probably until a year into the case.
15 And those translations also informed us going to Fokin when it
16 became clear to us Arena Lazaru was very much tied to En+ and
17 Rusal.

18 THE COURT: Were they required to provide those
19 translations?

20 MS. GLAVIN: I think, your Honor, if you're going to
21 put *Brady* front of us, they should have done that. For
22 instance, if the government had provided to me the e-mail that
23 they got, two e-mails they got, in May and June of 2022 from an
24 FBI analyst, attaching documents, including some of the ones
25 that the French and Russian one. If they had provided that in

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1 the Rule 16 discovery when they should have, that would have
2 helped short circuit things. They didn't provide that to us
3 until July of 2024. And that had been sitting in their files,
4 that they had those documents.

5 So, yes, if I had been on the case, and I was the
6 government, and I knew in the discovery that there was a French
7 document and a Russian document that I had not given the
8 defense translations for that were entirely exculpatory to
9 their case, yeah, I would have tried to make translations
10 available to them, or pointed them to them.

11 THE COURT: How much an adjournment are you looking
12 for?

13 MS. GLAVIN: I don't know right now until I get --
14 until I get some type of information from, you know, Mr. Olson
15 on this. And typically, because I need to do -- now I'm going
16 to do a letters rogatory to the extent it will expedite the
17 process. But what I think we should do is come back for a
18 status conference. I mean, I've talked to Mr. Shestakov with
19 this -- about this at length. And, particularly, where we are
20 today, which is that the hold up in this, is I can go do this
21 deposition tomorrow. Defense can do the deposition tomorrow.
22 The issue is because there is no law, there is no treaty, there
23 is no statute that says I need a letters rog to go take this
24 deposition.

25 This is OIA saying, well, it's customary for defense

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1 lawyers to do that. There is no law requiring it. But the
2 issue here is what DOJ's internal processes are and what
3 they're being told by the state department about what they can
4 and cannot do. That's the issue here. And I don't think any
5 of this would have been delayed if that could have been done.

6 And I will say, my experience with OIA, although it's
7 dated, is that, and I said this to the government, they can
8 make the sun and the moon move when the government needs a
9 deposition done of somebody that they need to get done quickly
10 in a Rule 15.

11 THE COURT: [REDACTED]
12 [REDACTED] [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

17 MS. GLAVIN: So the issue is, your Honor, I don't
18 know -- [REDACTED]
19 [REDACTED] then are there other places it can be done? That's what I
20 want Mr. Olson to work with the government on so that we can
21 propose this to Mr. Fokin and get this done.

22 THE COURT: Well, first, you're going to confirm in
23 writing that Mr. Fokin is willing to appear in Cyprus, and/or
24 Turkey.

25 MS. GLAVIN: Yes.

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1 THE COURT: All right.

2 MS. GLAVIN: As soon as I hear back from Mr. Nadler.
3 I posed that today, he would take it to Mr. Fokin.

4 THE COURT: Is Mr. Nadler at a firm?

5 MS. GLAVIN: I think he is. But he's in Miami and I
6 can't -- hold on.

7 I don't think you would recognize the firm. It's
8 Stumphauzer Kolaya Nadler & Sloman.

9 THE COURT: Thank you.

10 Ms. Zverovich.

11 MS. ZVEROVICH: Yes, your Honor. Your Honor, if I may
12 just briefly correct the record and set out the government's
13 position.

14 The government's position is that the defendant very
15 much dragged his feet with respect to this Rule 15 deposition.
16 In the very first discovery production in this case, which was
17 made in early February of 2023, the government produced to the
18 defense a statement that Mr. Fokin made during a border stop in
19 2021. And the substance of that statement is materially the
20 same, which is that he said that this contract with Spectrum at
21 issue in this case was the business of En+. So the defendant
22 has been on notice of that statement since early February of
23 2023.

24 The defendant then in January of 2024, so almost a
25 year after getting that information in discovery, advised the

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1 government by e-mail that he intended to file a motion in the
2 next few weeks seeking a Rule 15 deposition of Mr. Fokin. That
3 motion was not filed until nine months later, your Honor.

4 So that is the record in this case. And so had the
5 defendant pursued this deposition and filed a letter rogatory
6 request a year, almost two years ago at this point, we would
7 not be in this situation. And so while the government, as we
8 said in our letter, do not oppose a brief adjournment of the
9 trial date in order to allow this process to play out, we do
10 think it should be brief, your Honor.

11 And further, as we stated in our letter, this case
12 involves the testimony of multiple out-of-state witnesses, who
13 require their travel to be arranged, etc. And so we would ask
14 the Court, it would be important for us to have some certainly
15 with respect to the trial date.

16 THE COURT: Absolutely. We're not going to adjourn
17 *sine die*.

18 MS. ZVEROVICH: Thank you, your Honor.

19 MS. GLAVIN: If I might be heard briefly on this, your
20 Honor. One is with respect to what is required to make a Rule
21 15 motion. We did not have -- and we did not know literally
22 until December I think it was 15th or 16th and we filed our
23 motion on the 17th. We asked for extra time on that reply
24 because we had been told that Mr. Nadler had been retained,
25 that En+ had retained him for Mr. Fokin. But we still didn't

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1 have answers to our questions. The Rule 15 would have been
2 denied and we did not know he would be unavailable.

3 With respect to of course we knew and were on notice
4 when we got the border report, but that doesn't make you make
5 your Rule 15 motion then and there.

6 We, subsequently, going through the discovery, saw
7 other things that we thought would be able to be in a position
8 to corroborate the testimony and things that we found on our
9 own that would corroborate the testimony. But just because you
10 get the discovery -- and I might add, the discovery, we still
11 are getting the discovery even now. More keeps coming across
12 the transom.

13 But the defense doesn't make a Rule 15 motion right
14 away because you don't know that he's even not going to come to
15 the United States. In fact, we had some hope that perhaps he
16 might come to the United States and none of this would have
17 been necessary. But whether or not we were going to call him
18 in our case in chief and seek this out, certainly was not
19 something that we decided was a number of months.

20 And when we informed the government about that in
21 January, we fully expected that we would be able to get in
22 touch with Mr. Fokin one way or another, through phones,
23 through e-mails. And then there is also the issue of
24 Mr. Fokin's visa having been revoked at the government's
25 request, which is something that we did not learn about and we

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1 got in discovery. I think sometime in 2024 we got the papers.
2 So it just isn't, as the government presents, that you
3 automatically do this.

4 And, second, with respect to the prejudice to the
5 government, there is no, in our view, prejudice with respect to
6 them. They waited -- they investigated this case for two
7 years, at least two years before they brought it. And the
8 amount of discovery, you know, we were told several times they
9 were done with it. And they weren't and there were a lot of
10 stuff missing. There were problems and there was, you know,
11 I've had -- I've said my piece on this, but there was egregious
12 belated *Brady* disclosures to us that were critical.

13 We have also learned new things. Your Honor now has
14 in front of her our motion from learning that Mr. McGonigal had
15 a relationship with the CIA after he retired from the FBI.
16 That was just in text messages that we got in December.

17 With respect to prejudice to them, almost all of the
18 government witnesses are law enforcement in this case. You're
19 going to have Mr. Neza, who's a cooperator who can testify.
20 There is someone I've identified as a defense witness that the
21 government learned about recently and I think they want to call
22 her in her case in chief. But these are law enforcement
23 officials, the people who had the interviews of Mr. Shestakov.
24 These are the people who are going to be putting in the text
25 messages. This is a document driven case. This is what those

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1 law enforcement agents do. They can come here when they're
2 told to come here, to the extent they're not testifying some
3 place else. But the vast majority of witnesses in this case
4 are going to be law enforcement.

5 I've, you know, asked the government about who the
6 witnesses are. I'm not getting, you know, responses. We have
7 not received, we're now two weeks from trial, we have not
8 received any 3500 material for the witnesses because they
9 wanted to wait to see what your Honor was going to do on the
10 adjournment. But I expect that the 3500 material is going to
11 be extremely voluminous. And the one thing is, I can't agree
12 to stipulations until I see what the 3500 material -- a number
13 of stipulations until I see the 3500 material. So that factors
14 into it as well. But the prejudice actually is, to me, is if
15 Mr. Fokin -- and Mr. Shestakov does not have his testimony.
16 There is not -- this is a circumstantial case. There will not
17 be a witness from the government that is going to take the
18 witness stand and say I committed these crimes, here's how we
19 did it. Here are the text messages and I did it with
20 Mr. Shestakov. That's -- it's unusual for government to be in
21 that position. But it's not unusual when my client didn't
22 violate the sanctions. That's why they don't have that
23 witness.

24 Most of this case is going to come in through text
25 messages or communications they had with Mr. Fokin, which is

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1 why his testimony could not be more critical. Because they're
2 not going to have anybody explain what Mr. Fokin or know what
3 Mr. Fokin was talking about or what he said.

4 Charlie McGonigal is not going to be a witness in this
5 case, but they're going to be putting his text messages in with
6 no one to be able to explain what those text messages meant
7 with my client or what they meant with Mr. Fokin. There will
8 be a number of documents that will come in that Mr. Fokin
9 received from Mr. McGonigal as they related to what we've told
10 the Court we believe really happened here. Which is that
11 Mr. McGonigal got Mr. Fokin business intelligence information,
12 so that En+ Rusal could make decisions about a business dispute
13 and ultimate lawsuit that was filed in the U.K., including
14 information, and you'll see this in the text messages, about
15 Atomyze, which made its way into the lawsuit that they filed,
16 about Interros, I-N-T-E-R-R-O-S, about a company called
17 SinBridge. All of that was used by En+/Rusal when they filed
18 the lawsuit against Potanin for its misuse of Nornickel for its
19 assets.

20 So the prejudice to the government is getting these
21 FBI agents in who did the seizures, who did the extractions
22 from the phones. They will likely have a summary witness and
23 they will create a big Excel spreadsheet to try to argue this
24 is what happened.

25 With respect to -- and then they will have Agron Neza

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1 who has no personal knowledge of what this transaction was with
2 Spectrum, but was Mr. McGonigal's business partner. So the
3 prejudice to the government, with all due respect, is these FBI
4 agents and law enforcement can make themselves available
5 because that's what they do. If this were all civilian
6 witnesses, civilian cooperating witnesses, etc., that might be
7 another thing. But this is a different type of case.

8 The prejudice to Mr. Shestakov is this is his life.
9 And the more information that we have gotten in this case, and
10 particularly from the government in the last eight months, has
11 been amongst the most critical information that we have. And
12 we have also been doing some of our own investigation. And,
13 you know, which goes to -- and, your Honor, I would like to
14 schedule a time to make argument on some of the motions that
15 are pending because there are some documents that we need, that
16 we desperately need, and there's a witness that we desperately
17 need to call. But the prejudice is to Mr. Shestakov. And in
18 my discussions with him over and over in this case, it's yes,
19 he would like to go to trial, but he's like we're not ready.
20 We need to get this stuff and we need to get Mr. Fokin. And so
21 that is -- I don't think you should adjourn *sine die*, but
22 certainly so there's enough time for me to submit a letters
23 rog. [REDACTED]

24 [REDACTED] it may be that I am
25 able to, through letters rogue and trying to work through Dubai

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1 counsel, and I may do the same with respect to Cyprus and
2 Turkey if Mr. Fokin will testify there as well.

3 But it is the prejudice to Mr. Shestakov, you know, on
4 Fokin, it's the whole ball game. It's the whole case. And,
5 you know, I'm fighting hard. I think you can see it in the
6 motions. I'm fighting hard, because we think they got it
7 wrong.

8 THE COURT: All right. Ms. Zverovich, talk to me
9 about the prejudice to the government. Of course the public is
10 prejudiced by extended pretrial delays.

11 MS. ZVEROVICH: Right, your Honor.

12 The public has an interest in having a speedy trial.
13 And Ms. Glavin is just not correct that the government would
14 not be prejudiced by a lengthy delay. This case, the
15 government expects to call many witnesses, and not all of them
16 are law enforcement witnesses. There will be civilian
17 witnesses.

18 The conduct in this case is from 2021. So we are
19 coming up on it being four years old at this point, your Honor.
20 As the Court well knows, people's memories fade over time. It
21 becomes much more difficult to put on a case the longer you get
22 from the conduct at issue.

23 And so Ms. Glavin in her papers indicated that she
24 would be seeking a brief adjournment, that's a quote from the
25 defense papers. And we just would like to understand how long

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1 of an adjournment the defense is seeking.

2 THE COURT: All right. Ms. Glavin.

3 MS. GLAVIN: Your Honor, with respect to -- just on
4 this issue, the public interest in a speedy trial. The public
5 interest is that justice is done. And that's what the speedy
6 trial provides and that's why it's the defendant that has the
7 Constitutional right, and it's why there are exclusions.

8 THE COURT: Well, the Second Circuit has said that
9 extended pretrial delays may impair the deterrent effect of
10 punishment. So there is that.

11 MS. GLAVIN: It may impair it, but Mr. Shestakov, in
12 this particular case, I think the most important thing is that
13 it get -- is that it get done right. What I would like to do
14 is come back to the Court after we get the declaration from
15 Mr. Olson, after I can -- so what we will do is this week we
16 will prepare letters rogatory to send to your Honor.

17 I was looking at the *Fargesen* case with Judge Preska.
18 She did set a trial date, but had the parties come back for a
19 pretrial conference to give a status report. I just, my goal
20 is to get this done and for the government to do everything in
21 their power to help us for this to get done expeditiously.

22 THE COURT: Ms. Zverovich.

23 MS. ZVEROVICH: Your Honor, as I mentioned to the
24 Court, we would ask for certainty as to the trial date at this
25 conference because we do have a lot of out-of-state witnesses.

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1 We're in the process of interviewing them and arranging travel,
2 and it is important for us to have a date certain. And if the
3 defense intends to pursue this deposition, it is clear that it
4 cannot happen by the current trial date.

5 And so we would ask for the Court to make a
6 determination as to that adjournment request at this
7 conference.

8 THE COURT: Yeah. I mean, it's also challenging for
9 the Court. I've been holding four weeks open for a long, long
10 time. And, you know, if I'm going to move that we're not --
11 I'm just not going to -- or we're going to be looking at 2026
12 to do this. I'm not doing that.

13 So my first thought was pushing it by a couple of
14 weeks and starting later in February. I know you're going to
15 tell me that doesn't work for you, Ms. Glavin.

16 MS. GLAVIN: No, I think the issue, your Honor, is
17 that [REDACTED]

18 [REDACTED]
19 [REDACTED] I know that was
20 presented to Judge Preska in the *Fargesen* case that the
21 government took the position that [REDACTED]
22 This can go on for a long time.

23 So what Judge Preska did, was she set it down for a
24 conference for the parties to advise her on what progress, if
25 any, had been made, and then set a trial date after that. I

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1 don't think we're going to have an answer in a couple weeks,
2 but I'm going to get the letters rogatory out, to the extent we
3 need it in Cyprus and Turkey to do that. But what I'm
4 understanding is it's the government that is saying that their
5 internal processes are going to take months. That's the
6 problem.

7 THE COURT: Well, you don't expect to take a
8 deposition without government's participation, do you?

9 MS. GLAVIN: Exactly. No, that's the issue.

10 THE COURT: All right.

11 MS. GLAVIN: Unless the government waives it.

12 THE COURT: Well, you think you'll be able to use that
13 at trial, a deposition where the government wasn't present?

14 MS. GLAVIN: If the government -- no. I would make a
15 motion to the Court and say they had the opportunity to attend
16 and didn't. But I had no idea that it would take them months
17 to be able to get the approvals to participate. None.

18 THE COURT: I mean, it's also the case that we're just
19 not going to put this trial off indefinitely. We're going to
20 have to pick a time. I know the *Fargesen* case, but I don't
21 remember offhand if in that case -- I really doubt it -- there
22 had already been two previous adjournments before this issue
23 came up and the trial date was set.

24 So we probably have a different backdrop here than
25 Judge Preska was looking at there.

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1 What about April?

2 MS. ZVEROVICH: That works for the government, your
3 Honor.

4 THE COURT: By the way, I should say that there have
5 been references in different submissions to three weeks, four
6 weeks. I think more recently, Ms. Glavin, you mentioned three
7 weeks. I mean, what are the parties estimating in terms of
8 length of trial at this point?

9 MS. ZVEROVICH: Your Honor, the government's current
10 estimate for the government's case is approximately two weeks,
11 with the caveat that we did propose eight stipulations to
12 defense counsel and we asked for their position one way or the
13 other on those stipulations. If reached, those would allow the
14 government to streamline its case by avoiding the need to call
15 multiple custodians. And we have not heard from defense
16 counsel on those, and so that can effect the length of the
17 trial.

18 MS. GLAVIN: Yes, your Honor. With respect to the
19 stipulations, I have told them on some stipulations, we
20 actually can't stipulate. And then on some others, it really
21 is going to be determination on what we see in the 3500
22 material.

23 With respect to what we expect for the defense case, I
24 think we're going to have at least a week for the defense case.
25 It could be longer. You know, like the government, we're

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1 actually interviewing witnesses and doing our own prep, and we
2 have continued to do that. I just am conferring with my team,
3 your Honor, with respect to just some things that are coming up
4 that we planned.

5 THE COURT: All right. You can do that. Go ahead.

6 MS. GLAVIN: Your Honor, we would respectfully
7 request, given another matter, we would respectfully request a
8 trial date of June 2nd.

9 THE COURT: Let's see if I can do it.

10 Well, I have another criminal trial planned for that
11 week or so. I could do it in June, but it would have to be a
12 little bit later. And I want to get the government's position.
13 I will say, this is going to be the last adjournment. There
14 will be no more adjournments after this one. Once we settle on
15 a date, I'll go back to that.

16 Ms. Zverovich.

17 MS. ZVEROVICH: I'm sorry, your Honor.

18 THE COURT: What is the government's position on June?

19 MS. ZVEROVICH: Just one moment, your Honor.

20 THE COURT: Yeah.

21 MS. ZVEROVICH: Your Honor, the government does not
22 object to an adjournment to June, with the caveat that our
23 position would be that no further adjournments on the basis of
24 the deposition will be appropriate.

25 THE COURT: Well, there are going to be no further

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1 adjournments of this trial. Ms. Glavin, do you understand?

2 MS. GLAVIN: Yes, your Honor the record should reflect
3 the last adjournment was at the government's request.

4 THE COURT: Well, you consented to that adjournment
5 and gave your own reasons that you wanted an adjournment as
6 well.

7 MS. GLAVIN: Yes.

8 THE COURT: And the previous one was your request that
9 the government consented to.

10 MS. GLAVIN: Yes. But I just want to be clear the
11 government asked for an adjournment, your Honor.

12 THE COURT: All right. They asked for a brief
13 adjournment and I tried to move the trial to August to later
14 2024 and you said you were booked for the entire fall, all the
15 way through the month of December, which left us having to
16 delay it six months, and here we are.

17 Mr. Shestakov, do you understand there will be no
18 further adjournments of this trial?

19 THE DEFENDANT: I do, your Honor.

20 THE COURT: All right. And the government, I assume,
21 understands that as well?

22 MS. ZVEROVICH: We do, your Honor.

23 THE COURT: All right. So, Ms. Glavin, I know you
24 don't like a Tuesday start date, but we're going to have to do
25 that here. We'll get fresh jurors for you that day.

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1 MS. GLAVIN: Okay.

2 THE COURT: All right. We will start on Tuesday,
3 June 17th. I do want updates, though, in the near term on
4 whether hurdles are being cleared with respect to letters rog,
5 MLA, and whatever else.

6 Let's talk about some other dates and deadlines now.

7 So we have from late yesterday an application from the
8 defense relating to Mr. McGonigal. I don't remember if that
9 was sealed, so I'm not going to say more. I know everyone
10 knows what I'm talking about.

11 MS. GLAVIN: It's on the public record, your Honor.

12 THE COURT: It is. Okay. Thank you.

13 When can the government respond?

14 MS. ZVEROVICH: Your Honor, we would ask for two
15 weeks, please.

16 THE COURT: All right. And then, Ms. Glavin, if would
17 you like to reply, you will have a week after that.

18 MS. GLAVIN: Yes, your Honor.

19 THE COURT: All right. I would like that text,
20 please.

21 MS. GLAVIN: Yes, your Honor.

22 THE COURT: There are some new applications that came
23 in about an hour before the conference. I haven't had a chance
24 to even look at those. I don't imagine the government did
25 either. But I will expect a response and a reply on the

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1 ordinary timetable unless I hear otherwise from you all as to
2 that application or applications.

3 MS. GLAVIN: On the ordinary timeframe, I think maybe
4 we should just maybe agree on some dates.

5 THE COURT: All right.

6 MS. GLAVIN: Yeah.

7 THE COURT: Whatever you like.

8 MS. ZVEROVICH: Your Honor, we would propose three
9 weeks for the response and two weeks for the reply.

10 THE COURT: All right. My understanding is that other
11 than an application relating to Mr. McGonigal and the new
12 applications for today, everything else is fully briefed. Is
13 that correct?

14 MS. GLAVIN: Yes, your Honor. And we would actually
15 request to have some argument in front of the Court at a time
16 at your convenience.

17 THE COURT: Yeah. Absolutely. We can do that.

18 MS. GLAVIN: With respect to the issue on the
19 documents we are seeking from the Deripaska indictment, it's
20 just the sooner we can do that, the better, because to the
21 extent your Honor agrees and directs them to be turned over, we
22 really need those in getting other subpoenas out.

23 THE COURT: Yes, you will have additional rulings from
24 me soon.

25 MS. GLAVIN: So could we schedule a date now perhaps?

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1 THE COURT: I don't want to do that yet because I --
2 we'll schedule a date soon, but the date itself doesn't need to
3 be -- when are you thinking for argument? It can be in
4 February now, can't it?

5 MS. GLAVIN: That's why I was just like let's do it.

6 THE COURT: I see.

7 MS. GLAVIN: Yeah, that's what I was hoping. Because
8 I have a window.

9 THE COURT: Yeah. We all do suddenly.

10 Tuesday, February 11th.

11 MS. ZVEROVICH: That works for the government, your
12 Honor. Thank you.

13 MS. GLAVIN: Works for the defense, your Honor.

14 THE COURT: All right. 11:30.

15 MS. GLAVIN: Would that be on all of the fully briefed
16 motions or?

17 THE COURT: I mean, I'm open to hearing whatever
18 people want to argue about.

19 MS. GLAVIN: Okay.

20 THE COURT: I guess I should set aside some time then
21 for that day. Depending on how many additional motions you
22 bring, Ms. Glavin, between now and then, I do reserve the right
23 not to hear argument on an endless number of motions that day.

24 MS. GLAVIN: Yes.

25 THE COURT: We'll say 11:30, and I'll hold the

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1 afternoon.

2 Ms. Williams.

3 THE DEPUTY CLERK: Yes, Judge.

4 THE COURT: Okay.

5 Now, I think that there is no issue with Mr. Olson,
6 the supplemental Olson declaration coming in in ten days.
7 Correct? Although if he can do it in a week, you know.

8 MS. ZVEROVICH: Your Honor, we would ask for ten days
9 from the time where we finalize the set of questions with
10 defense counsel. We will work as quickly as possible to do
11 that. And then --

12 THE COURT: All right. I hope that. I hope you will,
13 yes, because --

14 MS. GLAVIN: Do it tomorrow.

15 THE COURT: All right. I assume there's no need to
16 come back to me with what the questions are. I'll just see
17 them addressed in the supplemental declaration.

18 We're going to have to deal with speedy trial now I
19 guess for a day.

20 Wait, before we do that, I want to ask if, I want to
21 ask the government if there's any need to seal any portion of
22 this transcript relating to the declaration?

23 MS. ZVEROVICH: Yes, your Honor. Because the --
24 because today's proceeding referenced a sealed portion of the
25 declaration, we would ask for the transcript to be partially

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1 redacted. And we can propose redactions for the Court's
2 consideration.

3 THE COURT: Okay. Why don't you do that, propose
4 redactions of the transcript.

5 MS. ZVEROVICH: Your Honor, also just one scheduling
6 question with respect to the argument.

7 THE COURT: Yeah.

8 MS. ZVEROVICH: We would just note that
9 February 11th I think is before the latest motions will become
10 fully briefed.

11 THE COURT: Oh, then we don't want to do that. So
12 there was something you were going to take three weeks and two
13 weeks, so we have to go five weeks out, right. Let's see.

14 Well, we have plenty of time in February. I mean, we
15 would have to go into March then. I'm not opposed to having
16 two separate argument dates so that we can move things along.

17 Okay. So why don't we do that. Why don't we stick
18 with February 11th, and then we can pick a date in March.

19 So the new motion will not be fully briefed until
20 Monday, March 3rd. Right? If we're going out five weeks from
21 today.

22 MS. GLAVIN: Well, actually, your Honor, with respect
23 to the new motion that was filed this morning, that is a motion
24 to compel testimony from a subpoenaed witness. She is
25 represented by counsel.

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1 THE COURT: Yes.

2 MS. GLAVIN: So we should confer with Mr. Maffeo about
3 his availability and whether he's going to be briefing as well.

4 THE COURT: Well, didn't something come in at like
5 1:00 something this afternoon, what was that?

6 MS. GLAVIN: That was it.

7 THE COURT: Okay.

8 MS. GLAVIN: So we have a witness that we subpoenaed
9 for the February 10th trial, that is a motion to compel her
10 testimony. It is Olga Shriki, who your Honor is probably
11 familiar with.

12 THE COURT: Yes.

13 MS. GLAVIN: She has informed us, her counsel informs
14 us, she intends to assert the Fifth. We have reason to believe
15 she's a cooperator with the government and that the motion
16 addresses that. And she is represented by counsel Bruce
17 Maffeo, who just should be made aware of any of the scheduling
18 and appearing before the Court.

19 THE COURT: All right. So we can't pick a date then
20 for that particular motion. So you'll come back to me and let
21 me know the status on that and then we'll schedule argument.

22 So is there an application from the government to
23 exclude time?

24 MS. GLAVIN: One other housekeeping matter I wanted to
25 raise with the Court.

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1 THE COURT: Yes.

2 MS. GLAVIN: Is that I had heard that the government
3 may be seeking its own Rule 15 deposition in this case. And if
4 that is the case, sort of what that would be and what that
5 looks like. They had told me they had not made up a decision
6 on whether they would be making a Rule 15 application. So I
7 just wanted to tee that up if that's something that's on the
8 radar screen.

9 THE COURT: Okay. Does the government wish to say
10 anything about that now?

11 MS. ZVEROVICH: No, your Honor. Other than it's
12 something that we are contemplating. We do not have a witness
13 identified yet, and so it's premature to raise that at this
14 point.

15 THE COURT: All right. Well, I'll see your
16 application when it comes, if there is one I suppose.

17 I should mention one matter relating to trial and
18 trial days, which I'm sure you all are used to from practicing
19 in this district. Consistent with the typical approach in this
20 district, which is judges either sit Monday through Thursday
21 and deal with the rest of their docket on Fridays, or they hold
22 trial five days a week but end it around 2:30.

23 I would opt for the latter. And so I don't imagine
24 anyone was thinking we would be doing five days a week of full
25 trial days, but just want to let you know that that will be my

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1 plan. And if that pushes us out, I don't know what the
2 underlying assumptions were when you thought about four weeks
3 but.

4 All right. Ms. Zverovich, speedy trial.

5 MS. ZVEROVICH: Your Honor, the government moves to
6 exclude time through the new trial date of June 17th, 2025
7 under 18, U.S.C., 3161(h)(7), and we would ask the Court to
8 make a finding that the interest of justice served by the
9 continuance outweigh the interests of the public and the
10 defendant in a speedy trial based on the defense request for
11 this deposition.

12 THE COURT: Ms. Glavin?

13 MS. GLAVIN: Mr. Shestakov fully consents.

14 THE COURT: All right. The time between today and
15 June 17, 2025 is excluded under the Speedy Trial Act pursuant
16 to 18, U.S.C., Section 3161(h)(7) in order to allow for the
17 parties to pursue the Rule 15 deposition of Mr. Fokin, to
18 complete briefing and argument pending motions, and to prepare
19 for trial.

20 I find that the ends of justice served by the granting
21 of this continuance outweigh the best interest of the public
22 and the defendant in a speedy trial.

23 Anything else for today?

24 MS. ZVEROVICH: No, your Honor. Thank you.

25 MS. GLAVIN: No, your Honor.

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1 THE COURT: All right. Thank you all. We are
2 adjourned.

3 (Adjourned)

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